



**BOARD OF ADJUSTMENT
CITY OF SCOTTSDALE
COMMUNITY DESIGN STUDIO - NAVE
7506 EAST INDIAN SCHOOL ROAD
SCOTTSDALE, ARIZONA
JULY 6, 2005**

REGULAR MEETING

APPROVED MINUTES

PRESENT: Terry Kuhstoss, Chairman
Carol Perica, Vice-Chairman
Jennifer Goralski, Board Member
Ernest Jones, Board Member
Howard Myers, Board Member
James Vail, Board Member
Neal Waldman, Board Member

STAFF PRESENT: Tim Curtis
Sherry Scott
Al Ward

1 **CALL TO ORDER**

The regular meeting of the Scottsdale Board of Adjustments was called to order by Chairman Kuhstoss at 6:04 p.m.

2 **ROLL CALL**

A formal roll call confirmed the members present as stated above.

APPROVAL OF MINUTES

June 8, 2005 Board of Adjustment Study Session Minutes

BOARD MEMBER VAIL MOVED TO APPROVE THE MINUTES AS SUBMITTED. SECONDED BY BOARD MEMBER GORALSKI. THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SEVEN (7) TO ZERO (0).

June 8, 2005 Board of Adjustment Meeting Minutes

Board Member Myers noted that his name had been misspelled on the June 8, 2005 minutes.

BOARD MEMBER GORALSKI MOVED TO APPROVE THE MINUTES AS CORRECTED. SECONDED BY BOARD MEMBER MYERS. THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SEVEN (7) TO ZERO (0).

REGULAR AGENDA

- 3 4-BA-2005 Dickman residence, request for a Variance from Article V. Section 5.804.E.2 regarding the building setback and/or Article V. Section 5.804.F.1 regarding the distance between buildings on a parcel at 7916 E. Vista Drive with Townhouse Residential (R-4) zoning.

Chairman Kuhstoss stated that members of the public who had previously testified about this case would not be permitted to address the meeting. Speeches should be limited to three-minutes.

Mr. Charlie Hirsch addressed the Board as a representative of Mrs. Irma Lyly, whose age and health prevented her from attending the meeting. Mrs. Lyly's residence is adjacent to the Dickman residence and for 40 years she had endured a series of tenant neighbors who took no pride in their home. Mrs. Lyly is in favor of granting the variance.

Mr. Joseph Moray expressed opposition to granting the variance.

Mr. Marv Thickland, Applicant Dickman's real estate agent, addressed the Board in favor of granting the variance.

Mr. Robert Bachman wondered whether the remodeling met the building code standards.

Mr. Jim Peterson recalled being on the HOA Board of Directors at the time the approval was granted and spoke in favor of granting the variance.

Ms. Barbara Lynch spoke in favor of granting the variance.

Mr. Jim Gardine spoke in favor of granting the variance, noting that there are other units that are also not in compliance. Ms. Dickman had twice been to the Board of Directors to get approval for her plans. Seventy-two homeowners had signed affidavits requesting that the variance be granted. Twenty-six homeowners had signed affidavits in opposition of granting the variance.

Board Member Myers requested that Dan Granger, President of the Homeowners Association, identify which plans the Board of Directors had approved. Mr. Granger replied that the plans submitted for approval by Ms. Dickman were not the structural plans required by the CC&Rs, and that they contained significant omissions. He expressed concern that the remodeling had not been inspected.

Attorney Lynne Lagarde addressed the meeting on behalf of the Applicant, Susan Dickman. She opined that the CC&Rs did not, in-fact, require full structural plans for remodeling projects; therefore, the Board of Directors had followed the correct procedure. Ms. Dickman obtained a letter from a structural engineer confirming the structural soundness of the building. Ms. Lagarde also pointed out that if the variance were approved, Ms. Dickman would have to apply for a building permit, the project would be inspected and would have to comply with the building code. Ms. Dickman had acted in good faith, believing that what she was doing was acceptable.

The Board Members discussed the case. In response to a question from Board Member Waldman, Ms. Scott assured the Board that this case did fall within their jurisdiction.

VICE CHAIRMAN PERICA MOVED TO APPROVE THE VARIANCE FOR THE DICKMAN RESIDENCE, CASE 4-BA-2005. SECONDED BY BOARD MEMBER VAIL. THE MOTION WAS DEFEATED BY A VOTE OF THREE (3) TO FOUR (4), WITH CHAIRMAN KUHSTOSS, BOARD MEMBER GORALSKI, BOARD MEMBER JONES, BOARD MEMBER MYERS DISSENTING.

- 4 2-BA-2005, Nystrom Offices, a Variance from Article V. Section 5.1504.A regarding the floor area ratio and Article V. Section 5.1504.B regarding the volume ratio on a parcel located at 10309 North Scottsdale Road, with Highway Commercial (C-3).

Mr. Cummins presented a staff report regarding this case. Mr. David Nystrom addressed the meeting. No members of the public wished to speak on this case.

Whereupon, the Board Members discussed the case.

VICE-CHAIRMAN PERICA MOVED THAT CASE 2-BA-2005, REQUEST FOR A VARIANCE FROM ARTICLE V. SECTION 5.1504.A REGARDING THE FLOOR AREA RATIO AND ARTICLE V. SECTION 5.1504.B, BE GRANTED. BOARD MEMBER WALDMAN SECONDED THE MOTION. THE MOTION

CARRIED WITH A VOTE OF FIVE (5) TO TWO (2), WITH CHAIRMAN KUHSTOSS AND BOARD MEMBER MYERS DISSENTING.

ADJOURNMENT

With no further business to discuss, the meeting adjourned at 7:26 p.m.

Respectfully submitted,
A-V Tronics, Inc.